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Amy Pelletier

/Amy Pelletier/

4/14/2011

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Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Dunbar	Confirmation No.:	1189
Serial No.	:	10/761,036	Art Unit	: 3733
Filed	:	01-20-2004	Examiner	: Hoffman, Mary C
Title	:	SPINAL ROD APPROXIMATOR	Patent No.	: 7,887,539

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE**

Dear Sir:

Responsive to the Determination of Patent Term Adjustment indicated on the front page of US Patent US 7,887,539 (issued 2/15/2011), the Patentee submits this Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d). As stated in 37 C.F.R. 1.705(d):

any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued...

This request is being submitted within two months of the issuance of the US Patent 7,887,539, and, thus, Patentee considers this request to be timely.

1. Payment of fee under §1.18(e) or §1.18(f)

Patentee hereby requests the fee for this petition be waived due to the nature of the error, as described below. However, if the USPTO disagrees, Patentee authorizes the

USPTO to charge the fee set forth in §1.18(e) or §1.18(f) or and any other fees that may be due to Deposit Account 10-0750.

2. Statement of Facts

Patentee disagrees with the Patent Term Adjustment set forth on the first page of the granted patent and as listed in PAIR. On 9/27/2010, along with payment of the issue fee, Patentee filed a Patent Term Adjustment disclosure letter advising the USPTO that the USPTO granted 72 days of patent term that the Patentee is not entitled to. Patentee considered the filing of the disclosure letter not to be a basis for patent term reduction as the disclosure letter was timely filed with the issue fee payment. Based on this filing of the disclosure letter, the patent term was erroneously reduced by 120 days pursuant to 37 CFR 1.704 (c)(10)(ii). Patentee considers this reduction to be an error and that patentee is entitled to the restoration of 120 days of patent term. Patentee considers the correct patent term for this patent to be 375 days. Patentee requests the restoration of 120 days of patent term to correct this error.

Other Circumstances

Applicants confirm that, (1) this application is not subject to a Terminal Disclaimer; and (2) except for the delay periods set forth above and noted in the PAIR calculation, there were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

US Patent Number: 7,887,539

Docket No: DEP5033USNP

Conclusion

For the reasons set forth above, Applicants request that the patent term adjustment for the present patent application be corrected to 375 days.

Respectfully submitted,

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